

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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RALPH BUCK PHILLIPS,

Plaintiff,

-v-

9:12-CV-0610  
(DNH/RFT)

T. LAVALLEY, Superintendent, Clinton Correctional Facility, sued in personal and official capacity; M. LAMOUNTAIN, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity; S. BROWN, Deputy Supt. Security, Clinton Correctional Facility, sued in personal and official capacity; C. DELUTIS, Sergeant (SHU), Clinton Correctional Facility, sued in personal and official capacity; J. LUDWIG, Sergeant, Clinton Correctional Facility, sued in personal and official capacity; M. LAFOUNTAIN, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity; J. FARRELL, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity; A. FRENYA, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity; C. GADWAY, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity; BEZIO, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity; LECLAIRE, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity; SEAN LILLEDAHL, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity; MORROW, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity; and JOHN DOE, Correction Officer, Clinton Correctional Facility, sued in personal and official capacity,

Defendants.

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APPEARANCES:

RALPH BUCK PHILLIPS  
06-B-3437  
Plaintiff, Pro Se  
Upstate Correctional Facility  
P.O. Box 2001  
Malone, NY 12953

HON. ERIC T. SCHNEIDERMAN  
Attorney General for the State of New York  
Attorneys for Defendants  
The Capitol  
Albany, NY 12224

DAVID N. HURD  
United States District Judge

OF COUNSEL:

LAURA A. SPRAGUE, ESQ.  
Ass't Attorney General

**DECISION and ORDER**

Plaintiff brought this action pursuant to 42 U.S.C. § 1983. On March 1, 2013, the Honorable Randolph F. Treece, United States Magistrate Judge, advised by Report-Recommendation that defendants' motion to dismiss be granted and ordered that plaintiff's cross-motion to amend be granted in part and denied in part. No objections to the Report-Recommendation were filed. Plaintiff filed an Amended Complaint on March 1, 2013.<sup>1</sup>

Based upon a careful review of the entire file and the recommendations of the Magistrate Judge, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore it is

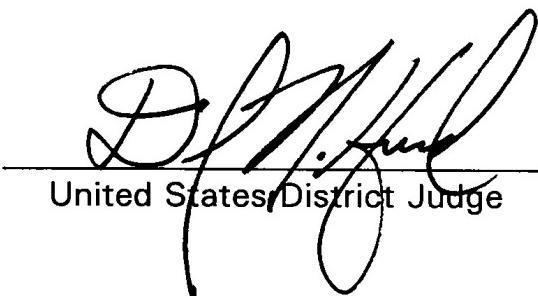
ORDERED that

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<sup>1</sup> Pursuant to Judge Treece's Report-Recommendation and Order, plaintiff's Amended Complaint, ECF No. 39 (with paragraphs 3(n)-3(q), 66-111, and 123-26 stricken), is now the operative pleading.

1. Defendants' motion to dismiss is GRANTED;
2. All claims against defendants LaValley and Brown are DISMISSED for lack of personal involvement; and
3. All claims for monetary damages against all defendants in their official capacities are DISMISSED pursuant to the Eleventh Amendment.

IT IS SO ORDERED.



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United States District Judge

Dated: April 17, 2013  
Utica, New York.